

REMARKS

Claims 24, 25, 27, 29, 30, 33-35, 37, 40, 42-44 have been amended, claims 26, 31, 32, 36, 38 and 39 have been canceled and new claims 45-49 have been added. Thus, claims 24, 25, 27-30, 33-35, 37-49 are currently pending and presented for examination. Applicants respectfully request reconsideration and allowance of the pending claims view of the foregoing amendments and the following remarks.

Response to Rejections Under Section 112:

Applicants have removed the phrase "applying the first respectively second symmetrical encryption key to data to be transmitted" thus making the 35 U.S.C. 112 rejection moot.

Response to Rejections Under Section 101:

Applicants have canceled claim 39 thus making the 35 U.S.C. 101 rejection moot.

Response to Rejections Under Section 103:

Claims 24-36 and 39-44 stand rejected under 35 U.S.C § 103(a), the Examiner contending that these claims are obvious in view of Hassan et al (USPN 6,031,913).

Applicants' Claim 24 recites:

by a first user of a communication network: receiving a first random value originating from a first stochastic process; generating a first symmetrical encryption key based on the first random value; transmitting the first random value to a second user of the communication network; by the second user: receiving the first random value from the first user; generating the first symmetrical encryption key based on the received random value

In contrast, Hassan teaches transmitting a pair of predefined signals (see e.g. col. 3 lines 30-38, col. 7 line 54-57) and generating an encryption key based on the random transmission properties of the channels used in the transmission (see e.g. Abstract). Hassan does not teach or suggest that the random value is transmitted but is determined from a phase difference (random transmission property) between the transmission and the receipt of the signal via the same user. A random value based on a transmission cannot reasonably be interpreted as a transmitted random number.

The following is a quotation from MPEP 2143

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

In view of the above, independent claim 24 is not obvious in view of Hassan. Also, for at least the reasons above, independent claim 40 is not obvious in view of Hassan. Furthermore, claims 25-39 which depend on claim 24 and claims 41-44 which depend on claim 40 are also patentable at least based on their dependency as well as based on their own merits. Therefore, Applicants respectfully request that the Examiner withdraw the Section 103 rejections.

New Claims:

New claims further define the scope of the invention as described in the specification and drawings. In view of the foregoing remarks regarding the other claims, Applicants respectfully submit claims 45-49 are patentable and requests allowance of claims 45-49.

Serial No. 10/563,504
Atty. Doc. No. 2003P05083WOUS

Conclusion

Applicants respectfully request that the Examiner reconsider the rejections and timely pass the application to allowance. Please grant any extensions of time required to enter this paper. The commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, including fees for additional claims and terminal disclaimer fee, or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

Dated: 17-110-04

By: Janet D. Hood
Janet D. Hood
Registration No. 61,142
(407) 736-4234

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, New Jersey 08830